

REMARKS

By the foregoing amendments the specification has been amended to update the status of the related applications referred to on page 1, claims 1, 6 and 11 have been amended and new dependent claims 16-21 have been added. Thus, claims 1-21 are in the application.

Claims 1-15 were rejected in the outstanding Office Action under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6,443,995 B1 as stated on page 2 of the Office Action. Claims 1-15 were further rejected in the Office Action under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6,743,260 B2 as set forth on page 2 of the Office Action. Responsive to these rejections, enclosed herewith is a Terminal Disclaimer by Applicants disclaiming a term of a patent issuing on the present application which will extend beyond the full statutory term of their commonly owned U.S Patent Nos. 6,443,995 B1 and 6,743,260 B2. In view of the submission of the Terminal Disclaimer, reconsideration and withdrawal of these rejections is respectfully requested.

Claims 1-15 are further rejected in the Office Action under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,197,066 B1 to Gabourie as stated on page 3 of the Office Action. This rejection is hereby traversed and reconsideration thereof is respectfully requested in view of the above amendments to the claims and Applicants remarks set forth below.

The present invention is directed to an improved prosthetic foot and an ankle apparatus which can be attached to a prosthetic foot to form part of a hindfoot portion thereof, which prosthetic foot mimics the human foot in

function. To this end, a feature of the prosthetic foot and ankle apparatus of the invention according to a preferred embodiment is that the ankle joint axis as projected on a transverse plane is 8° to 30° externally rotated with the medial side more anterior than the lateral to the long axis of the foot. See page 8 of the specification and Figure 4 of the drawings wherein the ankle joint axis 4A is externally rotated an angle α of 8° to 30° from the line drawn normal to the long axis x-x of the foot. As explained on page 8 of the specification, the ankle joint axis of rotation orientation allows the prosthetic foot to mimic human foot ankle joint sagittal and frontal plane motion capabilities. This feature of the prosthetic foot of the invention is now recited in each of the independent claims as amended in order to clearly distinguish over the cited reference to Gabourie.

Gabourie discloses a prosthetic foot providing plantar flexion and controlled dorsiflexion. It is noted in the Office Action rejection that the prosthetic foot (10) of Gabourie comprises an ankle joint (20) having a joint axis which is in the sagittal plane, the ankle being formed by a strut of resilient material, wherein a hole (21) extends through a hindfoot portion along an anterior side of the strut 4. The joint axis of ankle joint (20) in Gabourie is normal to the longitudinal axis of the foot. That is, the prosthetic foot of Gabourie is symmetrical along the longitudinal axis so left and right are interchangeable, as noted in column 4, lines 50-52. In contrast, with the present invention the ankle joint axis as projected on a traverse plane is 8° to 30° externally rotated with the medial side more anterior than the lateral to the long axis of the foot as explained in Applicants specification, for purposes of mimicking the human foot. The patent to Gabourie does not disclose or

suggest the prosthetic foot or ankle apparatus of the present invention and actually teaches away from a prosthetic foot having features of the present invention as now recited in application claims as amended.

The new dependent claims 16, 18 and 20 further recite that the ankle joint axis of the prosthetic foot/ankle apparatus as projected on a sagittal plane is inclined from the transverse plane with the anterior being more proximal than the posterior. See page 10 of the specification and Figure 8 of the application drawings.

New dependent claims 17, 19 and 21 further recite that the ankle joint axis as projected on a frontal plane is inclined from the transverse plane with the medial being more proximal than the lateral. This orientation of the ankle joint axis 4A is described on page 8 of the specification and illustrated in Figure 6 of the application drawings. As explained therein, this ankle joint axis of rotation orientation allows the prosthetic foot to mimic human foot ankle joint sagittal and frontal plane motion capabilities. Gabourie fails to teach or suggest a prosthetic foot having features as recited in the new dependent claims.

In view of the submission of the Terminal Disclaimer and the above amendments and remarks, it is respectfully submitted that claims as amended are in condition for allowance. Accordingly, reconsideration and allowance is respectfully requested.

Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-

2135 (Case No. 183.39210CP2) and please credit any excess fees to such deposit account.

Respectfully submitted,



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Attachments